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10/714,308	11/13/2003	Brian King	KING22.888 (336272-00002)	2120
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KATTEN MUCHIN ROSENMAN LLP			BOND, CHRISTOPHER H	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/714,308

Applicant(s)

KING, BRIAN

Examiner

Christopher H. Bond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11,13-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,13-16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1, 2, 4-11, 13-16, and 18-23 are pending in the present application.

Claims 3, 12, and 17 have been cancelled. Claims 21-23 are new.

#### *Specification*

2. The applicant's corrections of the various informalities in the specification have been noted by the Examiner; the Examiner's prior objections have been withdrawn.

#### *Claim Objections*

3. Claim 6 is objected to because of the following informalities: Applicant's claim 6 depends on claim 3 which has been cancelled. For purposes of this examination, the Examiner believes the applicant's claim is dependent on either claims 1 or 2, and will be examined as such. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

4. The applicant's amendment to claim 2 has been noted; the Examiner withdraws the previous 25 U.S.C. §112, second paragraph rejection.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 21-23 are rejected under 35 U.S.C. 112, second paragraph**, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "Success information" is a rather broad, ambiguous term. For purposes of examination, the Examiner has interpreted "success information" to mean a successful return from the tennis player, as indicated in the applicant's specification.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. **Claims 1, 2, 4, 6, 7, 9-11, 13, 14, 16, 18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Krubeck, US PUB 2003/0204275 (hereinafter Krubeck).**

9. As to claims 1, 2, 6, 7, 9, 10, 13, 14, and 16, Krubeck presents a sports charting system and discloses (abstract) that, "The sports charting system operates on a standard portable and non-portable electronic processing device. The sports charting system stores and displays a sport environment and stores and accepts user data input relating to statistics and player and sport apparatus positions relative to the sport environment. The sports charting system then generates real-time statistics from the user inputted player and sport apparatus positions relative to the sport environment. The sports charting system then generates real-time statistics from the user inputted player and sport apparatus positions." Krubeck further discloses (paragraph [0011]-[0014])), "The sports charting system operates on a computing system, such as the presently used standard personal computers, PDA's and PDA/cellular phones. The sport charting system can be easily transported to sporting events, and operated in the

stands or on the sidelines of a sports event...The sports charting system also provides default values for a plethora of information derived from a player's properties to create a more efficient system for charting sports performances. The sports charting system generates trending information, tactical information...The scoring for a sports performance is kept and displayed instantly in response to the input of the players' locations and ball location. In the example of a tennis match, the sports charting system generates statistics and data from the player locations and the ball location...." Krubeck further discloses (paragraph [0053]), "The sport game orientation means the orientation of the sport environment relative to the system. For example, a side view of a tennis court means that the sidelines of the tennis court are horizontal as viewed by the user. An end view of a tennis court means that the baseline of the tennis court is horizontal as viewed by the user. This enables the user to view the tennis court on the sports charting system as the user views the tennis court of the match the user is charting" (see also Krubeck Figures 11-14). Krubeck further discloses (paragraph [0055]), "The sports charting system typically comprises software (or a combination of software and hardware) that is operable in the computing device to perform the functions as described herein...The sports charting system is an interactive system that requires user input to direct it's processing and displaying functions. The user input can be the point and click of a mouse on a personal computer, a pressure sensitive touch on a PDA screen, or other electronic apparatus inputting actions and devices such as: a keyboard, knobs, spin controls, joy sticks, touch pads and roller balls among other conventional inputting apparatuses." Krubeck further discloses (paragraph [0075]), "Some of the

statistics generated and displayed by the sports charting system relate to the serving efficiency of a player. Some of these statistics are first serve percentage...second serve percentage..." This would anticipate the applicant's limitations of having a system for capturing and analyzing data from a tennis match to show player's tendencies, comprising: a data collection unit (computing device), a storage device (inherent part of computer), a computer system (computing device), an operator interface for inputting and displaying information, using a representation of a predefined graphical format (tennis court, see Krubeck Figures 11-14), wherein the tendencies relate to at least the location to which the player tends to hit the ball. This further anticipates the applicant's limitations of: having a statistical representation of a predefined format (i.e. displaying statistic in percentage form, see also Krubeck Figures 17-19); wherein data is entered manually; wherein data collection further includes a touch screen.

10. Furthermore, the method of analyzing data from a tennis match to show player's tendencies, comprising: dividing the court into a plurality of discrete locations (see Krubeck Figures 11-14); acquiring at least one piece of data related to player performance on said tennis court and correlating at least one piece of data to at least one of discrete location (Figure 11); storing the data; repeating the previous two steps to accumulate a plurality of data; sorting the plurality of data related to at least one discrete location ("...displaying selected statistics...", Krubeck paragraph [0102]); wherein a portion of stored data is presented in graphical form, and at least one sort criteria includes the location from which a player hit the ball; as well as the method of capturing and analyzing data from a tennis match to show player's tendencies, comprised of

collecting data, storing data, inputting sort criteria, manipulating stored data to obtain a subset of said collected data (see Krubeck Figures 15 and 16 to see statistics by player name--i.e. subset), displaying the representation in a graphical format, analyzing the subset to determine a player's tendencies; wherein the player's tendencies relate to at least the location to which the player tends to hit the ball--are all merely steps of the device's operation, and since each step must be implemented in order to make the device, the methods would have been inherent in view of the device.

11. As to claims 4, 11, and 18 Krubeck discloses (paragraph [0072]), "FIG. 15 is an illustration of the win/loss-playing display 477 which is displayed once a point has finished. The back selection 478 returns the playing screen display 461. The back selection 478 can return to as many previous strokes, serves, games, sets and matches as the user desires. The next selection 480 displays the first serve display 430 for the next point to be played. The win/loss-playing display 477 displays the point winning player 470, point winning player information 482 and the point winning player location 460 from the user input from the previous point. The sports charting system determines the point winning player charting location 484 by placing an "x" mark in either the approach or at net checkboxes in the point winning player charting location 484. This value can be changed by the user by inputting the appropriate value. The sports charting system captures net approaches, by determining the location of the players relative to the tennis court display 406. The sports charting system will determine that a player was at the net, if a user inputs a player's location as being between the net and

the service line." Types of strokes are clearly illustrated in Figure 15, relative to the player position, and Figure 11 of Krubeck also illustrates shot location and stroke type.

12. As to claim 20, as discussed above, Krubeck provides several means for manually inputting data into the sport charting system.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 8, 15, and 19, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krubeck.**

15. As to claims 8 and 15, while Krubeck does not explicitly disclose that the sports charting system includes transmissions means for transmitting data to another (remote) device, it would have been obvious, and well within the means of one skilled in the art to include such a limitation. As Krubeck discloses the use of desktop computers, PDAs, and cell phone devices as computing devices for his invention, all devices were well known to be able to transmit data to other devices through the use of wired and wireless technology at the time the applicant's invention was made.

16. As to claim 19, Krubeck does not specifically disclose a sort criteria that includes game point, however Krubeck discloses (paragraph [0080]), "The sports charting system uses match controllers, set controllers, game controllers and point controllers that collectively embody the rules of tennis to generate, responsive to a user's inputted



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match type, the required number of points, tiebreakers, games, sets and matches without the user needing to enter this data. A match controller is responsible for playing a tennis match, by creating new sets when they are necessary, saving sets to internal persistent storage, knowing how to keep set scores and when a match has been completed. A set controller is responsible for playing a set, by creating new games when necessary, saving games to internal persistent storage, and knowing how to keep game scores and when a set has been completed. A game controller is responsible for playing a game, by creating new points when necessary, saving points to internal persistent storage, and knowing how to keep point scores and when a game has been completed. A point controller is responsible for playing a point, by knowing about the serve, return and playing portion of a point." As disclosed, Krubeck's charting system keeps track of points from a match, set, game, and point level. Moreover, the system saves each point to storage. Since 'game point' is an integral and well-known part of tennis, it would have been well within the capabilities of one skilled in the art to include this limitation as a sort criteria, as Krubeck's invention specifically saves points on a point-by-point basis at each hierarchical level--that is, point, game, set, match--which in the course of competition, would include game point.

17. As to claims 21-23, while Krubeck shows (Figures 11-14) and discloses both a graphical representation showing a plan view of a tennis court divided into sections, and expresses statistics in a percentage format (Krubeck Figures 17-19, and paragraphs [0075-0077], Krubeck fails to explicitly disclose a predetermined graphical representation with a plan view of a tennis court divided into sections including

percentage success information relating to that section. Krubeck charts both player and ball positions, points, and has the ability to illustrate player and ball positions and points on a predefined graphical format using a tennis court divided into sections. It would have been well within the capability of one skilled in the art to illustrate a player's percentage of success on the graphical representation of the tennis court--as Krubeck shows statistics expressed in percentage form, and a graphical representations of a tennis court showing both ball and player locations on a point-by-point basis, and this limitation is merely a combination of the two.

**18. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krubeck in view of Baum, USPAT 5,868,578 (hereinafter Baum).**

19. While Krubeck discloses a sports charting system, Krubeck fails to disclose or teach the use of a video camera as a data collection unit.

20. Baum presents a sports analysis and testing system and discloses (abstract), "...a plurality of high-speed digital video cameras, each aimed at a player from a different perspective to record their movements and those of a ball in play. In a[n]...application, a programmed computer interfaced to the video cameras and various optional sensors includes application software to generate performance statistics as a function of the [game mechanics]..."

21. The advantage of using a video camera as an input means for a sports charting system, writes Baum (column 1, lines 29-32), is to create, "...an analysis and testing system which may be used to track activities in a variety of different sports for the

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purpose of creating performance databases, and present data for a variety of analytical and/or statistical evaluations.

22. This is evidence that one of ordinary skill in the art would have reason/motivation/suggestion to use a video camera as an input means on a sports charting system for the purpose of tracking activities in a variety of different sports for the purpose of creating performance databases, and to present data for a variety of analytical and/or statistical evaluations.

23. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Krubeck with the video camera input as described by Baum for the purpose of creating performance databases, and to present data for a variety of analytical and/or statistical evaluations.

### ***Response to Arguments***

24. Applicant's arguments with respect to claims 1, 2, 4-11, 13-16, and 18-23 have been considered but are moot in view of the new ground(s) of rejection.

### ***Citation of Pertinent Prior Art***

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Metz USPAT 5,412,188; Lewis USPAT 5,882,269; Fisher USPAT 5,507,485; Bonito et al., USPAT 5,095,430; Kelson et al., USPAT 5,558,333; Nickerson USPAT 6,041,266; Johnson et al., USPAT 5,664,880; Remedio USPAT 4,910,677--as these all teach scoring/officiating/statistical systems for sports, and Honjas US PUB

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2002/0015060--which relates to a statistical presentation system that can shared among remote users; "Make my Database" and "Sportmate Products" which relate to ChartMate Pro, a charting and statistical tool for tennis, and "Tennis Match Analysis"--a computer program used to generate statistics for tennis.

***Conclusion***

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Bond whose telephone number is (571) 272-9760. The examiner can normally be reached on M-F 9:30am - 6pm (Eastern Standard Time).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chris Bond

  
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SUPERVISORY PRIMARY EXAMINER